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6

7 **BEFORE THE**
8 **BOARD OF ACCOUNTANCY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) NO. AC 96-12
Against:)
12 WILLIAM A. DAMERON) DEFAULT DECISION
17 Aspen Way)
13 Watsonville, California 95076) [Gov. Code §11520]
California Certified Public)
14 Accountant Certificate No. 35024)
15 Respondent.)
16

17 FINDINGS OF FACT

18 1. On or about May 9, 1996, Complainant Carol Sigmann
19 in her official capacity as Executive Officer of the Board of
20 Accountancy, Department of Consumer Affairs State of California
21 (hereinafter "Board"), filed Accusation No. AC 96-12 against
22 William A Dameron. (hereinafter "respondent").

23 2. On or about May 21, 1996, Sandra L. McQueen, an
24 employee of the Office of the Attorney General, sent by regular
25 mail a copy of Accusation No. AC 96-12, Statement to Respondent,
26 Government Code sections 11507.5, 11507.6, and 11507.7, Notice of
27 Defense forms, and a Request for Discovery to respondent's last
address of record with the Board which is 17 Aspen Way,

1 Watsonville, California 95076. The documents sent via regular
2 mail were returned marked "attempted not known". On May 28,
3 1996, the above-named documents were sent via certified mail.
4 The documents sent via certified mail were returned marked
5 "forwarding order expired".

6 3. On June 11, 1982, the Board issued certified public
7 accountant certificate No. 35024 to William A. Dameron. Said
8 certificate expired on November 1, 1991.

9 4. Business and Professions Code section 118 provides,
10 in pertinent part:

11 "(b) The suspension, expiration, or forfeiture by
12 operation of law of a license issued by a board in the
13 department, or its suspension, forfeiture, or cancellation
14 by order of the board or by order of a court of law, or its
15 surrender without the written consent of the board, shall
16 not, during any period in which it may be renewed, restored,
17 reissued, or reinstated, deprive the board of its authority
18 to institute or continue a disciplinary proceeding against
19 the licensee upon any ground provided by law or to enter an
20 order suspending or revoking the license or otherwise taking
21 disciplinary action against the license on any such ground."

22 5. Government Code section 11506 provides, in
23 pertinent part:

24 "(b) The respondent shall be entitled to a hearing on
25 the merits if he files a notice of defense, and any such
26 notice shall be deemed a specific denial of all parts of the
27 accusation not expressly admitted. Failure to file such
notice shall constitute a waiver of respondent's right to a

1 hearing, but the agency in its discretion may nevertheless
2 grant a hearing"

3 6. Respondent failed to file a Notice of Defense
4 within 15 days after service upon him of the Accusation and
5 therefore waived his right to a hearing on the merits of
6 Accusation No. AC 96-12.

7 7. Government Code section 11520 provides, in
8 pertinent part:

9 "(a) If the respondent fails to file a notice of
10 defense or to appear at the hearing, the agency may take
11 action based upon the respondent's express admissions or
12 upon other evidence and affidavits may be used as evidence
13 without any notice to respondent;"

14 8. Pursuant to its authority under Government Code
15 section 11520, and based on the evidence before it, the Board
16 finds that the following allegations contained in the Accusation
17 No. AC-96-12 are true:

18 A. Respondent was engaged to prepare Mr. and Mrs.
19 Burris' 1991 tax return. Respondent sought and obtained an
20 extension from the IRS from April 15, 1992 to August 15, 1992,
21 for the filing of the Burris' tax return. Mr. and Mrs. Burris
22 provided respondent with the necessary information to complete
23 their tax return on August 6, 1992. Respondent failed to file a
24 second extension with the IRS and did not complete the Burris'
25 1991 tax return until December of 1992. Respondent's failure to
26 file a second extension with the IRS resulted in the assessment
27 of penalties for late filing against Mr. and Mrs. Burris.

B. Respondent accepted the engagement to prepare tax

1 returns for Mr. and Mrs. Burris in August of 1992.

2 C. In December of 1992, respondent sent Mr. and Mrs.
3 Burris their completed 1991 tax return along with correspondence
4 in which he used the title C.P.A..

5 DETERMINATION OF ISSUES

6 1. Respondent is subject to disciplinary action
7 pursuant to Business and Professions Code section 5100 (c) for
8 gross negligence in that he failed to file a second extension
9 with the IRS for a tax return in progress, or failed to file a
10 timely tax return, by reason of the Finding of Facts numbers 1
11 through 8A above.

12 2. Respondent is subject to disciplinary action
13 pursuant to Business and Professions Code section 5100 (h) in
14 that he breached his fiduciary duty to his clients when he failed
15 to timely prepare their tax returns as promised, or to file a
16 second tax extension which resulted in penalties being assessed
17 against them, by reason of Finding of Facts numbers 1 through 8A.

18 3. Respondent is subject to disciplinary action
19 pursuant to Business and Professions Code sections 5050 and 5055
20 for practicing accountancy during a period when his license had
21 expired, by reason of the Finding of Facts numbers 1 through 8C,
22 above.

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ORDER OF THE BOARD

California Certified Public Accountant Certificate No. 35024 heretofore issued to respondent William A. Dameron, is hereby revoked. An effective date of September 6 19 96 has been assigned to this Order.

Pursuant to Government Code section 11520, subdivision (b), respondent is entitled to make any showing by way of mitigation prior to the effective date of this decision.

Made this 6th day of August, 1996.



FOR THE BOARD

1 DANIEL E. LUNGREN, Attorney General
of the State of California
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Oakland, California 94612-3049
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8 DEPARTMENT OF CONSUMER AFFAIRS
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11 In the Matter of the Accusation) No.: AC-96-12
Against:)
12) ACCUSATION
WILLIAM A. DAMERON)
13 17 Aspen Way)
Watsonville, CA 95076)
14)
California Certified Public)
15 Accountant Certificate No. 35024)
Respondent.)
16)
17)

18
19 Carol Sigmann, as cause for discipline alleges:

20 1. She is the Executive Officer of the State Board of
21 Accountancy, Department of Consumer Affairs, State of California,
22 and files this Accusation in her official capacity as such.

23 2. On June 11, 1982, the Board of Accountancy
24 (hereafter referred to as Board) issued certified public
25 accountant certificate No. 35024 to William A. Dameron (hereafter
26 referred to as respondent). Said certificate expired on November
27 1, 1991. Under Business and Professions Code section 118 (b),

1 the expiration of the aforementioned license does not deprive the
2 Board of jurisdiction to proceed with disciplinary action against
3 said licensee, during any period in which it may be renewed,
4 reissued, or reinstated.

5 3. Business and Professions Code section 5100
6 provides, in pertinent part, that the Board may revoke, suspend,
7 or refuse to renew any permit or certificate granted under
8 Article 4 (commencing with section 5070) and Article 5
9 (commencing with section 5080), or may censure the holder of that
10 permit or certificate for unprofessional conduct which includes
11 but is not limited to one or any combination of the following:

12 "... (c) dishonesty, fraud, or gross negligence in the
13 practice of public accountancy or in the performance of
14 the bookkeeping operations described in Section 5052.

15 ... (h) fiscal dishonesty or breach of fiduciary
16 responsibility of any kind..."

17 4. Business and Professions Code section 5050 provides
18 in pertinent part that no person shall engage in the practice of
19 public accountancy in this State unless such person is the holder
20 of a valid permit to practice public accountancy issued by the
21 Board.

22 5. Business and Professions Code section 5055 provides
23 in pertinent part that any person who has received from the Board
24 a certificate of certified public accountant and holds a valid
25 permit to practice under the provisions of this chapter shall be
26 styled and known as a "certified public accountant " and may also
27 use the abbreviation "C.P.A.". No other person shall assume or

1 use that title, designation, or abbreviation.

2 6. Business and Professions Code section 5107 provides
3 in pertinent part: "The executive officer of the Board may
4 request the Administrative Law Judge, as part of the proposed
5 decision in a disciplinary proceeding, to direct any holder of a
6 permit or certificate found guilty of unprofessional conduct
7 . . . to pay to the Board all reasonable costs of investigation
8 and prosecution of the case, including attorney's fees."

9 FIRST CAUSE FOR DISCIPLINARY ACTION

10 7. Respondent was engaged to prepare Mr. and Mrs.
11 Burris' 1991 tax return. Respondent sought and obtained an
12 extension from the IRS from April 15, 1992 to August 15, 1992,
13 for the filing of the Burris' tax return. Mr. and Mrs. Burris
14 provided respondent with the necessary information to complete
15 their tax return on August 6, 1992. Respondent failed to file a
16 second extension with the IRS and did not complete the Burris'
17 1991 tax return until December of 1992. Respondent's failure to
18 file a second extension with the IRS resulted in the assessment
19 of penalties for late filing against Mr. and Mrs. Burris.

20 8. Respondent has subjected his license to discipline
21 under Business and Professions Code section 5100 (c) for gross
22 negligence in that he failed to file a second extension with the
23 IRS for a tax return in progress, or failed to file a timely tax
24 return, as set forth more specifically above in paragraph 7.

25 9. Respondent has subjected his license to discipline
26 under Business and Professions Code section 5100 (h) in that he
27 breached his fiduciary duty to Mr. and Mrs. Burris when he failed

1 to timely prepare their tax returns, or to file a second tax
2 return extension, which resulted in penalties being assessed
3 against them.

4 SECOND CAUSE FOR DISCIPLINARY ACTION

5 10. Respondent has subjected his license to discipline
6 under Business and Professions Code sections 5050 and 5055 in
7 that he engaged in the practice of public accountancy and used
8 the title C.P.A. when he did not have a valid license to
9 practice. The circumstances follow:

10 A. Respondent accepted an engagement to prepare tax
11 returns for Mr. and Mrs. Burris in August of 1992.

12 B. In December of 1992, respondent sent Mr. and Mrs.
13 Burris their completed 1991 tax return along with correspondence
14 in which he used the title C.P.A..

15
16 PRAYER

17 WHEREFORE, the complainant requests that a hearing be
18 held on the matters herein alleged, and that following said
19 hearing, a decision be issued:

20 1. Revoking or suspending Certified Public Accountant
21 Certificate Number 35024 issued to respondent, William A.
22 Dameron;

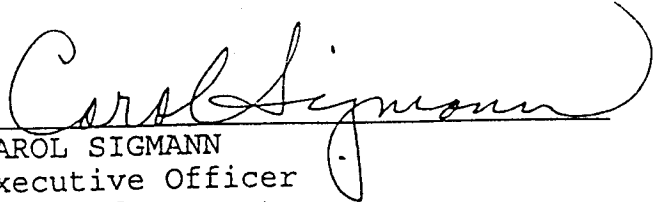
23 2. Awarding the Board costs as provided by Business and
24 Professions Code section 5107; and

25 3. Taking such further action as the Board deems

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4.

proper.

DATED: May 9, 1996


CAROL SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

0354110-SF96AD0490

RE: WILLIAM DAMERON - CASE NO. AC-96-12

Summary of Costs

DAG	-	\$ 686.00
Investigative CPA	-	\$3,662.69
DOI	-	\$ 459.30
TRP Consultant	-	\$.00
Outside Counsel	-	\$.00
Other	-	<u>\$.00</u>
TOTAL		\$4,807.99